

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 06-04 (1) (RHK/JSM)

Plaintiff,

ORDER

v.

Giber Lopez Cisneros,

Defendant.

Before the Court is Defendant's 28 U.S.C. § 2255 Motion seeking to vacate his sentence, which was imposed on October 4, 2006. This same relief was sought by Plaintiff in 2009 and was denied as untimely (see Doc. No. 30); that denial was affirmed by the Eighth Circuit. Defendant then sought a downward departure of his sentence; that Motion was denied for lack of jurisdiction (see Doc. No. 40).

The present Motion is untimely and lacks any merit. Accordingly, and upon all the files, records and proceedings herein, **IT IS ORDERED** that Defendant's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 (Doc. No. 41) is **DENIED**. The Court also **DECLINES** to issue a Certificate of Appealability.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: March 6, 2013

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge